



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs Sarah Mason  
**Respondent:** Pobl Group Limited  
**Heard at:** Cardiff **On:** 13 December 2019  
**Before:** Employment Judge Hargrove (sitting alone)

**Representation:**

Claimant: No attendance  
Respondent: Ms J Jones (Solicitor)

## PRELIMINARY HEARING (CASE MANAGEMENT)

### ORDER

Pursuant to Rule 37(1)(d) of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 the claims are struck out as not actively pursued.

### REASONS

1. On 23 November 2018 the Claimant presented claims of acts of discrimination arising from disability and a failure to make reasonable adjustments. She had been employed by the Respondent as a Support Worker dealing with vulnerable adults from 10 August 2016 until 29 June 2018, when she was dismissed for gross misconduct. The allegations were that she had visited a vulnerable adults home when it was unoccupied; that

she had sold her items on a public site; and, more importantly, failed to report a safeguarding issue namely that a registered sex offender was engaging in a relationship with a 14 year old girl from the premises of the vulnerable adult.

2. It was claimed insofar as these allegations were concerned that the Claimant had severe stress and anxiety constituting disability which affected her ability to recognise the importance of the matters about which complaint was made; and that the matters should have been treated as health and safety and not disciplinary issues. The Respondent denied disability.
3. It is to be noted that the Claimant was professionally represented up to and including the first Case Management Hearing by telephone on 8 February 2019. The claims are well pleaded. At that Case Management Hearing a timetable was ordered for the Claimant to provide a Schedule of Loss (by 1 March) and, more importantly, to obtain a medical report on disability and its effects on her decision-making capacity by 24 April and, if relied upon, to the Respondent by 3 May. A second Telephone Preliminary Hearing was ordered for 24 May 2019. A first application for an extension was made by the Claimant's representative on 23 May and granted. New dates were fixed for the provision of the report by 5 June if relied upon. On 6 and 7 June a second application for an extension was applied for. The second Telephone Preliminary Hearing was re-listed for 19 June 2019. However on 12 June the Claimant's representative came off record. New dates for compliance with Orders were then sent to the Claimant on 14 June for 20 and 27 June.
4. None of the above Orders have been complied with to date. On 19 June 2019 the Telephone Hearing was re-listed for 23 August. On 27 June the Respondent made a first application for an Unless Order. On 6 August a first warning of a strike out (not a formal strike out warning) was sent out by the Tribunal. The Claimant responded for the first time by email on that date asking "what it was all about. This is the first I've seen of anything between me and them... my union said it could not go ahead so I am totally shocked to receive anything. They have all but killed me I don't want to hear from them ever again".
5. On 23 August the Respondent applied to postpone the Telephone Hearing listed for that day on the basis that the Claimant had not responded. On 25 August the Claimant was directed to notify the Tribunal within 7 days whether she was pursuing her claim or withdrawing or a strike out would take place. On 26 August the Claimant responded: "I don't know what this is all about. I was told I had no case against Pobl as I had not been employed for 2 years, no matter that I had been bullied and my mental health suffered, plus I have now in the past month been assaulted by a member of their staff and she has pleaded guilty... I have not received anything and don't know what is going on..."

6. On 5 September the Respondent wrote in asking for confirmation that the claim had now been struck out as not actively pursued. On 15 September a third letter of enquiry was sent to the Claimant by the Tribunal attaching the original claim form and asking the Claimant if she wanted to proceed with her claims to notify the Tribunal within 7 days. On 16 September the Claimant responded: "I am sorry but I cannot send in anything as I have not received anything other than a couple of emails from yourselves of which I have replied each time to ask what I am doing and what this is. Please please can someone help me. My stress levels are off the wall and I am struggling to cope here". A similar letter was sent by the Claimant on 16 September at 6.25 and 6.27am.
7. A more detailed explanatory letter was sent by the Tribunal to the Claimant on 26 September stating that the Claimant should tell the Tribunal and the Respondent within 21 days if she wanted to continue with her claim but if she did not reply the Tribunal would strike out her claim as not actively pursued. On 5 October 2019 the Claimant responded indicating that she did not really understand what was happening but would continue forward. On the basis of that reply Employment Judge ordered that a Preliminary Hearing be ordered in person on the next ELIPS day. That was listed on 5 November to take place today, 13 December 2019. In the meantime, on 15 October the Claimant wrote to the Tribunal notifying that she had been assaulted by a member of staff and had subsequently been assaulted twice more and she attached a draft form of letter from a solicitor addressed to a Mrs Trudy Matthews alleging that she had been harassing the Claimant. The letter is dated 19 July 2019. I have enquired of Mrs Jones who this person is and she had informed me that Trudy Matthews is a former employee of the Respondent however Mrs Jones knows nothing about this allegation. On 6 November the Respondent's representative wrote to the Tribunal setting out the above history of failures to comply with Orders. This was copied to the Claimant but no response has been received to date.

8. Rule 37(1) provides that  
"at any stage of the proceedings, either on its own initiative or on the application of a party, a Tribunal may strike out all or part of a claim... on any of the following grounds... (d) (that it has not been actively pursued)"

I am satisfied, from the above chronology, that the Claimant has not actively pursued her claims. She has not complied with any of the Orders, even when represented and I note that the indications are that a medical report was obtained, but not provided to the Respondent. The Claimant has had a series of warnings that her claims would be struck out if she did not comply with the Orders. The ET1 has been copied to her. The Orders were sent to her solicitor and would have been copied to her by them. She has not attended this hearing today, specifically listed to enable her to receive advice from an ELIPS representative free of charge (although the ELIPS representative stated today that he could not represent the Claimant

because of a conflict of interest). The Claimant has not told the Tribunal that she could not attend.

I have taken into account the likelihood that the Claimant is mentally ill and will have difficulties in representing herself (although no medical evidence nor even a GP's letter has been provided to confirm it). This case is now over a year old and no progress whatsoever has been made. It is by no means clear that the Claimant does intend to continue with her claim. This is not in any sense the Respondent's fault, and serious allegations of discrimination have been left unresolved against their staff. It is not in the interests of justice that the claim should continue. It is however open to the Claimant to apply for reconsideration of this Order but a very good explanation will need to be made to the Tribunal for her failures to comply with Orders, supported by some written medical evidence.

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Employment Judge J Hargrove  
Dated: 19 December 2019

JUDGMENT SENT TO THE PARTIES ON

.....22 December 2019.....

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FOR THE SECRETARY OF EMPLOYMENT TRIBUNALS

**NOTE:**

This is a written record of the Tribunal's decision. Reasons for this decision were given orally at the hearing. Written reasons are not provided unless (a) a party asks for them at the hearing itself or (b) a party makes a written request for them within 14 days of the date on which this written record is sent to the parties. This information is provided in compliance with Rule 62(3) of the Tribunal's Rules of Procedure 2013.